HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.22157 and 23467 of 2006

Dated:13.11.2006

Between:

Singuru Govinda Rao and others.

…Petitioners

and

The Revenue Divisional Officer and others.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.22157 and 23467 of 2006

COMMON ORDER:

The petitioners in these two writ petitions are residents of different Villages in Amudalavalasa Mandal of Srikakulam District. In 1993 the Mandal Revenue Officer (MRO), Amudalavalasa, assigned land admeasuring Ac.0.02 to 0.03 cents to thirteen persons including the petitioners herein. The house site pattas granted to them contains the condition that they should construct a house within a period of one year on the land assigned. There was also a condition that in the event of non-compliance with the conditions of assignment, the Government can resume the land. The MRO, Amudalavalasa, submitted a report on 29.04.2005 informing the first respondent that the petitioners contravened the conditions of the assignment and that they did not construct houses/structures on the land. At that stage, a show cause notice was issued to the petitioners to explain as to why assignment should not be cancelled. The petitioners allege that they made representations, and as no orders were passed, all of them were under the impression that all proceedings initiated for cancellation were dropped. The petitioners also deny any allegation that they did not raise constructions on the assigned land. Be that as it is, the first respondent passed orders vide Rc.No.1517/06 B, dated 10.10.2006,

cancelling the assignment under para 15 (iii) of Board Standing Order (BSO) 21. Aggrieved by this, the present Writ Petitions are filed.

When W.P.No.22157 of 2006 came up for admission on 26.10.2006, learned Counsel Sri O.Manohar Reddy, *inter alia,* contended that as the assigning authority is MRO, the Revenue Divisional Officer could not have validly cancelled the assignment. Therefore, the learned Counsel for the petitioners as well as the learned Assistant Government Pleader were directed to produce the copies of the house site pattas granted to the petitioners. These pattas have been filed along with W.P.No.23467 of 2006. Condition No.9 of the assignment says that in the event of contravention of the conditions of assignment, it shall be open to the Revenue Divisional Officer to resume the land. Further, under subpara (iii) of para 15 of BSO 21, the Divisional Officer has ample powers to cancel the assignment. Therefore, the submission of the learned Counsel for the petitioners on the incompetency of the first respondent is devoid of any merit. The submission that they were not issued any notice cannot be accepted. However, this Court hastens to add that as pointed out by the learned Assistant Government Pleader for Revenue (Assignment), against the order passed by the Revenue Divisional Officer cancelling/resuming the assigned house site, the petitioners have a right of appeal before the Joint Collector, Srikakulam, under para 15 of BSO 15 which is also made applicable to BSO 21. The petitioners should agitate the question of want of notice before the appellate authority, who can verify the records and pass appropriate orders. On this question, this Court declines to express any opinion.

The petitioners are given liberty to approach the Joint Collector, Srikakulam, within a period of one week from the date of receipt of a copy of this order. Thereafter, the Joint Collector shall consider the appeal and if necessary conduct personal inspection as to whether the petitioners have constructed houses/structures/huts on the assigned lands within one year from the date of assignment, and pass appropriate orders.

The Writ Petitions, with the above observations, are accordingly dismissed. No costs.

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(V.V.S.RAO, J)

13.11.2006

vs